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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,496	05/24/2001	Larry A. Davison	38190/215312	2421

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EXAMINER

VON BUHR, MARIA N

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,496

Applicant(s)

DAVISON ET AL.

Examiner

Maria N. Von Buhr

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2001 and 11 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-39 are pending in this application.
2. Examiner acknowledges receipt of Applicant's information disclosure statements, received 11 June 2001, with accompanying reference copies, which have been taken into consideration for this Office action.
3. Claims 1-8 and 17-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

In claims 1 and 24, the method is not clearly related to the environment of the preamble, since it is unclear as to what is performing any of these steps. This presents ambiguity with regard to metes and bounds of such a claim, since the steps of the method could possibly be embodied in an unlimited number of ways. This indefiniteness persists through each of the dependent claims.

Further in claim 1, it is unclear how the "at least one NC program" can be transferred "across the WAN from the at least one central processing element," when the central processing element has previously been claimed only as being "notified" of the selected NC program. Hence, there is no clear antecedence for the central processing element having the NC program, in order to be able to transfer it.

In claims 17-23 and 32-39, the claim language "is adapted to" is vague and indefinite, since it does not positively recite functionality.

4. Applicant is advised that should claims 6, 17 and 21 be found allowable, claims 25, 34 and (respectively) will be objected to under 37 CFR §1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP §706.03(k).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by Applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by Applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by Applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 6, 8-11, 15-18, 21, 23-27, 31-35 and 39 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Makino et al. (U.S. Patent No. 5,266,878), which discloses a “CNC apparatus for controlling a plurality of machines,” wherein “a main CPU unit and a plurality of CNC units [are] provided on a one-to-one correspondence with machine tools ... to modify the mode of machine tool control ... a new system program is down-loaded through the RAM of the main CPU unit into the CPU for the CNC unit” (the abstract). Also, see at least, col. 1, line 64 - col. 3, line 37; col. 5, line 51 - col. 6, line 32; and col. 1, lines 15-25, wherein the well-known use of networks is disclosed). As per the “protocol” and “format” language of the claims, all computer communication inherently involves a predetermined protocol and/or format, else the communicating computers would not be able to “understand” each other.

7. Claims 1-6, 8-13, 15-21, 23-29, 31-37 and 39 are rejected under 35 U.S.C. §102(a) as being clearly anticipated by Takizawa et al. (U.S. Patent No. 6,145,022), which discloses an injection molding system utilizing a “program control section including a program file section that stores a plurality of different programs in the form of files, and a program transfer section that selects a computer program from the program file section and transfers the selected computer program to the controller” of a machine (the abstract). Also, see at least, col. 2, lines 3-24; col. 2, line 61 - col. 3, line 28, wherein the use of servers over a network are disclosed). As per the “protocol” and “format”

language of the claims, all computer communication inherently involves a predetermined protocol and/or format, else the communicating computers would not be able to "understand" each other.

8. Claims 1-39 are rejected under 35 U.S.C. §102(e) as being clearly anticipated by Sevcik et al. (U.S. Patent No. 6,470,377), which teaches "a networked system combines multiple workstations, storage devices and file handlers with multiple computer numerical controls," utilizing a "standard process-to-process communication protocol," wherein "a file management system ... allows the activation and execution of part program operations at a computer numerical control on files accessed through standard open networks" (the abstract). Also, see at least, col. 2, line 64 - col. 3, line 44; col. 4, lines 20-31; col. 4, line 51 - col. 5, line 25; col. 5, line 57 - col. 6, line 5).

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. Applicant is advised to carefully review the cited documents in preparation for responding to this Office action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria N. Von Buhr whose telephone number is 703-305-3837. The examiner can normally be reached on M-F (9am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 703-308-0538. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Maria N. Von Buhr
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